

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

PHI ACQUISITIONS NSA

Docket No. MC2014-21

PHI ACQUISITIONS NSA

Docket No. R2014-6

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO  
CHAIRMAN'S INFORMATION REQUEST NO. 1**  
(March 26, 2014)

The United States Postal Service hereby provides its responses to Chairman's Information Request (CHIR) No. 1, issued March 19, 2014. Responses were due by March 25, 2014. Attached are the responses to Questions 1-9, and 12. Responses to Questions 10-11 are forthcoming. Each question is reprinted verbatim in the attached, and is followed by the Postal Service's response.

Respectfully submitted,

UNITED STATES POSTAL SERVICE  
By its attorneys:

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March 26, 2014

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1. 39 C.F.R. § 3010.43 details the minimum requirements for the Postal Service's data collection plan and data reporting during the negotiated service agreement's (NSA's) term. 39 C.F.R. § 3010.43(b) requires that the data report under the plan is filed "60 days after each anniversary date of implementation." In addition, 39 C.F.R. § 3010.43(b) describes the minimum requirements for the data report. Please explain how the data collection plan presented in Attachment D to the filing conforms with the requirements of 39 C.F.R. § 3010.43. If necessary, please revise the proposed data collection plan for the Agreement.

**RESPONSE:**

39 C.F.R. § 3010.43 requires the Postal Service to provide "a plan for providing data or information on actual experience under the agreement sufficient to allow evaluation of whether the negotiated service agreement operates in compliance with 39 U.S.C. 3622(c)(10)." By providing actual volumes, revenues, rebates, and the calculations performed to determine those rebates, the Postal Service will have provided all the available data information to be used (along with system-wide unit cost estimates) to estimate a value for the agreement. The Postal Service will file its report within 60 days after each anniversary date of implementation. The 90-day deadline contained in the Postal Service's Notice was a typographical error.

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2. The Agreement contains an implementation date of "July 1, 2014, or a date mutually agreed upon by the Parties." Notice, Attachment B at 3. The Agreement also contains an effective date that is "the day after the Commission issues all necessary regulatory approval." Id. at 12.
  - a. Please explain the difference between the "implementation date" and the "effective date" of the Agreement.
  - b. Please describe the significance of the "implementation date" and the "effective date" under the Agreement's terms.

**RESPONSE:**

a-b. The "implementation date" is the date on which the discount incentive structure detailed in the Agreement will take effect, and volume will begin counting towards the applicable thresholds. The "effective date" is the day after the Commission issues all necessary regulatory approval. The key date in this Agreement is the "implementation date", which defines when key components in the Agreement will become active, and also determines the termination date. The "effective date" simply marks the regulatory approval by the Commission. For an amplification of this response regarding the business reasons for separate implementation and effective dates, the Postal Service is referring the request to PHI.

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3. 39 C.F.R. § 3010.42(f)(3) requires the Postal Service to file an analysis of the effects of the Agreement on the contribution to institutional costs from mailers who are not party to the Agreement. Please identify the location in the Postal Service's Notice where this information is provided. If such information has not been provided, please supplement the Notice to conform with this requirement.

**RESPONSE:**

The Postal Service expects the contribution from mailers not party to the Agreement will not change as a result of this Agreement; thus, no analysis was provided. However, as presented in the "4\_Tier" tab of PHI\_NSA\_Financials.FINAL.xlsx, and discussed in the Financial Analysis section of the Postal Service's Notice pleading, the Postal Service estimates that Agreement will generate new volume and positive contribution of \$10.748 million. This new contribution will reduce the current share of other mailers' contribution towards overall institutional costs.

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4. 39 C.F.R. § 3010.42(g) requires that the Notice identify "each component of the agreement expected to enhance the performance of mail preparation, processing, transportation, or other functions . . . [and discuss] the nature and expected impact of each such enhancement." Please identify the location in the Postal Service's Notice where this information is provided. If such information has not been provided, please supplement the Notice to conform with this requirement.

**RESPONSE:**

By limiting PHI Eligible Mail to Carrier Route flats (Saturation, High Density Plus, High Density, and Basic) and FSS flats which bear a full-service Intelligent Mail Barcode, the structure and eligibility requirements of the NSA create economies of scale and scope, which will enhance the preparation of all Flats mail. Other than these eligibility requirements, no components of this Agreement are specifically designed to enhance the performance of mail preparation, processing, transportation, or other functions. Therefore, no discussion was provided.

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5. The Agreement's incentive program clause allows PHI to participate in Postal Service incentive programs during the Agreement's term. If PHI participates in a Volume Based Incentive, PHI must provide certain information to the Postal Service concerning its participation in the Volume Based Incentive. In accordance with the incentive program clause, "[v]olumes and discounts from a Volume Based Incentive may be adjusted to [e]nsure that discounts or incentives are not double-counted." Notice, Attachment B at 3.
- a. Please confirm that it is at the Postal Service's discretion to determine if a volume and/or discount adjustment will occur as a result of PHI participation in a Volume Based Incentive. If not confirmed, please explain.
  - b. If part a is confirmed, please describe the criteria the Postal Service will use to determine whether a volume and/or discount adjustment will be assessed and how the adjustment will be calculated.

**RESPONSE:**

- a. Not confirmed. While the Postal Service is responsible for making the ultimate determination as to whether discounts should be adjusted, it does not exercise unfettered discretion in making this determination as the Agreement requires mutual consent for PHI to participate with any adjustments. See response to Part (b).
- b. Without a clear picture of how future Volume Based Incentives may be configured in terms of the eligibility and discount structure, it is difficult to specify the criteria that may be used by the Postal Service at a later date. The Postal Service's main objective will be to ensure that there is no double-counting of discounts or incentives for NSA customers that are also eligible for future Volume Based Incentives.

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6. Currently, "more than ninety-five percent (95%) of PHI's Standard Mail flats volume consists of Carrier Route flats." Notice, Attachment B at 1. Under the Agreement, "at least ninety percent (90%) of PHI's overall annual Standard Mail flats volume should remain PHI Eligible Mail." Id. at 2. Please confirm that the Agreement does not mandate that at least 90 percent of PHI's annual Standard Mail flats volume be PHI Eligible Mail. If not confirmed, please explain.

**RESPONSE:**

Confirmed. However, as stated, a minimum of 90 percent of PHI's annual Standard Mail flats volume should and is expected to be PHI Eligible Mail. If this 90 percent mark is not reached, it will make it increasingly difficult for PHI to achieve the Agreement thresholds, which could trigger the penalty clause and the termination clause.

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7. At various places in its Notice and attachments, the Postal Service identifies various factors as key aspects of this contract, some of which appear to bear on its understanding of the requirement that the PHI Agreement be made "available on public and reasonable terms to similarly situated mailers." 39 U.S.C. § 3622(c)(10). Does the Postal Service consider all of the following objectives, elements, principles, or terms of the PHI Agreement to be required in determining whether another mailer is deemed to be similarly situated?
- a. "The objective of this Standard Mail market-dominant NSA is to increase the total contribution the Postal Service receives from PHI Standard Mail Carrier Route Flats volume and revenue." Notice at 6. (Emphasis added.)
  - b. "The basic agreement consists of four key components: (1) a volume threshold, (2) a volume threshold adjustment, (3) a volume commitment and (4) rebates on Standard Mail Carrier Route Flats. . . . The Postal Service regards each of the four main elements described above . . . to be essential components of this NSA. . . ." Id. at 7, 10. (Emphasis added.)
  - c. "Th[e] design imperative—to generate additional contribution for the USPS—and the basic structure of the NSA with PHI . . . will guide the Postal Service in the negotiation of similar NSAs. . . ." Id. at 10-11. (Emphasis added.)
  - d. "[T]he Postal Service believes that the defining characteristics of PHI are its size, its large but stagnant catalog mail volume history, and the availability of company mail and catalog data." Id. at 11. (Emphasis added.)
  - e. If there are any aspects of the PHI Agreement that the Postal Service will require for an agreement with a similarly situated mailer not stated in subparts a through d, please identify those aspects.

**RESPONSE:**

Items a-d above are all key aspects of this Agreement to be used in determining whether another mailer is deemed to be "similarly situated" to PHI. Additionally, the availability of data, the willingness to share that data, and subject that data to validation by the Postal Service, will be critical in future NSA discussions. Furthermore, additional elements would be considered that may be applicable to other mailers, including the various components of the termination clause in this Agreement.

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8. In its description of the design imperative on page 10 of the Notice, the Postal Service lists "current and future economic conditions" as a basis for determining the exact values of the main elements of the Agreement: volume threshold, volume threshold adjustment, volume commitment and rebates.
- a. Please describe how current and future economic conditions were factored into the exact values of the volume threshold, volume threshold adjustment, volume commitment and rebates in the Agreement. In the description, please discuss any macroeconomic indicators relied upon and their impact on the development of the main elements of the Agreement.
  - b. Please describe how current and future economic conditions will be used to establish the exact values of the volume threshold, volume threshold adjustment, volume commitment and rebates in agreements with similarly situated customers.

**RESPONSE:**

- a. Qualitative and quantitative analysis was performed using PHI historical trends, and other macroeconomic variables (income or GDP, sales trends, volume trends in the catalog industry, etc.) that tend to correlate with PHI mail volume.
- b. Assuming similar data are available from a similarly situated customer, we expect to follow the same approach discussed in response to Part (a), in order to establish these values.

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9. On page 11 of the Notice, the Postal Service states that the “defining characteristics of PHI are its size, its large but stagnant catalog mail volume history, and the availability of company mail and catalog data.” Cells C174 through F174 in the “Inputs” tab of PHI\_NSA\_Financials.FINAL.xlsx show that PHI’s volume has increased by approximately 1 percent annually since 2010. Please explain why the Postal Service considers PHI’s annual growth rate to be stagnant.

**RESPONSE:**

PHI’s volume history has been relatively stable over the past several years (average annual growth of only 0.7 percent). The Postal Service has deemed that to be “stagnant”.

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12. On page 7 of the Notice, footnote 14 states that the Postal Service included FSS information in the discussion of the volume threshold "in the event FSS becomes a category or sub-category during the term of this NSA."
- a. Please confirm that on January 26, 2014 the Postal Service implemented FSS Pricing for Standard Mail Flats, Carrier Route Flats, High Density Flats, and High Density Plus Flats. If not confirmed, please explain.
  - b. Please explain which categories of FSS Flats will be considered eligible mail for the purposes of the volume threshold calculation.
  - c. Please confirm that the financial model does not include FSS Flats in the contribution calculations. If confirmed, please provide revised workpapers that reflect the implementation of FSS pricing. If not confirmed, please explain.

**RESPONSE:**

a. Confirmed.

b. The rate for FSS Flats considered eligible after January 26, 2014 are High Density Plus, High Density, and Basic Carrier Route.

c. Confirmed that the financial model does not include FSS Flats in the contribution calculations. However, an analysis was performed on four actual mailings from February 2 to March 3, 2014, plus a theoretical re-rating of a larger mailing from 2013, to assess the impact of the new FSS prices. The analysis revealed that the total savings due to FSS was 0.045 percent of the total postage cost, or \$3,525 savings on a total postage spend of \$7.9 million. Therefore, the Postal Service has concluded that FSS will not have a material impact on this Agreement.